

ORIGINAL

In the United States Court of Federal Claims

No. 17-763C

(Filed: June 22, 2017)

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DEREK N. JARVIS,

*Plaintiff,*

v.

THE UNITED STATES,

*Defendant.*

\*\*\*\*\*

FILED  
JUN 22 2017  
U.S. COURT OF  
FEDERAL CLAIMS

ORDER

Plaintiff Derek Jarvis appearing *pro se*, filed a complaint seeking an order to compel the United States Department of Housing & Urban Development to disclose requested records under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 (2012). Defendant has not responded to the complaint, but we need not wait for a response because it is clear on the face of the complaint that we lack jurisdiction to provide plaintiff the relief he seeks.

Jurisdiction is a threshold matter. *See Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94-95 (1998). The court may raise the issue *sua sponte* at anytime. *Folden v. United States*, 379 F.3d 1344, 1354 (Fed. Cir. 2004). "If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action." RCFC Rule 12(h)(3). Although *pro se* plaintiffs are afforded latitude in their pleadings, that cannot excuse a lack of jurisdiction. *See Henke v. United States*, 60 F.3d 795, 799 (Fed. Cir. 1995).

It is well established that this court does not have jurisdiction over an alleged violation of FOIA. *Treece v. United States*, 96 Fed. Cl. 226, 232 (2010) (dismissing FOIA claims because the district courts have exclusive

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jurisdiction over such matters). In fact, the statute that plaintiff cites as providing jurisdiction in this court makes clear that FOIA claims are to be brought in district court. 5 U.S.C. § 552(a)(4)(B) (“On complaint, the district court of the United States in the district . . . has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records . . .”). The complaint must be dismissed.

Plaintiff also filed a motion to proceed *in forma pauperis*. For good cause shown, that motion is granted. Accordingly, the following is ordered:

1. Plaintiff’s June 6, 2017 motion to proceed *in forma pauperis* is granted.
2. The Clerk of Court is directed to dismiss the complaint for lack of jurisdiction and enter judgment accordingly.



ERIC G. BRUGGINK

Senior Judge